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ADOPTION OF THE REPORT OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Draft report

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Addendum

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Senegal

1. The Committee considered the second periodic report of Senegal (CEDAW/C/SEN/2 and Amend.1) at its 247th meeting, on 27 January 1994 (CEDAW/C/SR.247).

2. In introducing the report, the representative of the Government of Senegal noted that the socio-economic situation of the country had remained influenced by the unfavourable exchange rate for national products, external debt, climatic conditions, structural adjustment measures, high inflation and other negative factors affecting the country.

3. He emphasized that the status of women in his country had evolved since the colonial period. He stated that the colonial aim had been to concentrate on women in their reproductive role. They had no access to education, and there was no intention of abolishing traditional practices.

4. The representative noted that since independence and following the adoption of appropriate legislation, efforts had been made to raise awareness among the population regarding improvements in the areas of health and education. He also

emphasized the issues related to women's role in the family, development, food, self-sufficiency and work in the informal sector.

5. The representative also informed the Committee that recently there had been significant progress in women's education and that the enrolment of women in schools was on the rise, including in higher education. Employment among women had also increased, with most women working in the agricultural sector, while the remainder worked largely in fisheries. However, access to credit remained a problem, though efforts were being made to redress it.

6. Regarding the inclusion of women in the labour force, the representative stated that women represented 8 per cent of all workers in the private sector and 15 per cent in the public sector. In the private sector, women are paid by piece-work, while men were paid by the hour, thus manifesting serious inequalities.

7. In respect to female circumcision, the representative stated that some 20 per cent of the population still practised genital excision without anaesthesia or psychological counselling, leading to severe health problems among women, including haemorrhage. He noted that the authorities did not approve of this practice, but it was not prohibited under the country's Penal Code.

8. Regarding prostitution, the representative indicated that although prostitution was not illegal, it had been pointed out as the source of the transmittal of sexual diseases. He indicated that prostitutes were required by the Health Ministry to be registered, and failure to do so resulted in penal measures such as imprisonment. He also said that HIV/AIDS was linked to prostitution, with 30 per cent of all cases of HIV/AIDS being women.

9. The representative indicated that violence against women remained a problem although the Penal Code provided for legal redress. Rape was also frequent in spite of the severe penalties, and sexual harassment, which was sometimes confused with men's advances towards women, was an issue not dealt with under the Code.

10. With respect to family planning, the representative observed that the rising demographic trend (2.8 per cent yearly) and high maternal mortality had led the authorities to start a policy for the establishment of family planning centres, which had multiplied since 1970, partly with the assistance of the United Nations Population Fund (UNFPA). Awareness of contraceptive methods had increased (89.8 per cent for all methods), but their use remained low owing to cultural traditions. On the other hand, abortion was a crime as well as taboo. Finally, he observed that social benefits included medical care, maternal assistance and full pay during maternity leave.

11. In respect of the political participation of women, the representative noted that the place women occupied in the political arena was very restricted. Only three women had become members of the Government, while in Parliament, out of 120 members, only 15 were women. There was only one female Mayor, and no women headed any political party, not even the Socialist Party, where women represented 600,000 out of the 800,000 members.

12. Regarding the legislative measures taken by the Government, the representative stated that obsolete measures in the family law that granted certain powers to the husband, such as in the legal domicile and the right to oppose the practice of a professional activity, had been revoked.

13. The representative observed that the Ministry of Justice, in collaboration with all relevant ministries, was responsible for the preparation of the periodic report on the implementation of the international instruments. The report to the Committee on the Elimination of Discrimination against Women (CEDAW) had been prepared in consultation with non-governmental organizations, which offered their comments and suggestions. These organizations had also contributed to the distribution of the present report.

1. General observations

14. The Committee noted the political will of the Government to change the status of women, but also that there was still discrimination against women and that their potential contribution was not fully acknowledged. It was felt that the report should have addressed the actual situation of women to determine their progress, and it was suggested that the next report should provide information on rural women, prostitution and disabled women, and should include more statistical data on the de jure and de facto situations.

2. General questions

15. In response to the comments made by members of the Committee with respect to statistics, female circumcision and structural adjustments in the economic and social fields, the representative stated that his introductory statement contained the answers to those issues.

16. In his reply to the question on whether the Ministry of Social Development had replaced the former Ministry for the Status of Women, and what impact that would have on the Inter-ministerial Committee and the National Consultative Commission, the representative stated that it was an evolution of the feminist policy of the Government. The intent was to group the various political components under one ministry, which would also be responsible for the implementation of these policies.

17. With respect to the Inter-ministerial Committee, the representative observed that its role was to ensure follow-up action to the feminist and family policies defined by the Government. All relevant ministries were represented on the Committee.

18. The role of the National Consultative Commission was to assist the Head of State in defining feminist and family policies. In relation to the budgetary provisions for the Women's Ministry, the representative observed that it received an allocation similar to that of other ministries, as provided under the Finance Law approved by the Parliament.

3. Questions related to specific articles

Article 1

19. In response to the definition of discrimination in the national law, the representative indicated that a working group had been established in 1993 which was put in charge of the adaptation of the national legislation to the international instruments ratified by the country.

Article 2

20. With respect to the offence of family abandonment, the representative explained that originally article 332 of the Penal Code penalized abandonment of the domicile by married women, and that, since this text was considered discriminatory, it was replaced by a new one condemning the abandonment of the domicile by either spouse, although it still required that charges for legal action be filed by the wife.

21. Regarding the social, cultural or religious customs having an impact on the lives of women and the role of the Ministry of Women's and Children's Affairs, the National Consultative Commission and the Inter-ministerial Committee, the representative noted that the customs were deeply rooted in the society. The authorities concerned were aware of the need for changing mentalities and had devised a plan of action for implementation to address those customs that had stymied the advancement of women.

Article 3

22. It was noted that although legal measures had been taken, freedom and equality remained fragile in a retrograde social context and that the Government must make a greater effort to develop women's rights.

Article 4

23. With respect to the functioning of the training centres and the programmes offered to women, the representative observed that, bearing in mind the high number of drop-out students and the low capacity of the educational system to absorb the rapidly growing school-age population, the State Secretariat and the different ministries relevant to women's issues decided to establish a system of vocational training for women in all administrative departments in charge of absorbing female drop-out students from the traditional system. In these centres, which number about 60, the staff include trainers and monitors who train the girls in home economics, etc.

Article 5

24. In replying to the questions on the Family Code and the provisions granting a woman the right to take over the management of household affairs in the event of the presumed absence of the husband, the representative noted that in the absence of the husband the wife became the provisional administrator of the properties.

25. It was stated that customs could only be changed gradually and that polygamy was just one form of marriage in Africa. In some cases, it was a choice that women decided to make. Furthermore, it was pointed out that many educated women chose a polygamous marriage because it was easy to enter into and easy to get out of; consequently, it would be difficult to abolish such a practice.

Article 6

26. In response to the request for additional information regarding prostitution, procurement, the penalties provided for under article 323 of the Penal Code and the action taken for the social and economic reintegration of prostitutes, the representative noted that prostitution was not prohibited by law, but was subject to control by the Ministry of Health, which registered all prostitutes for medical check-ups on a bi-monthly basis. If prostitutes did not register themselves, they were subject to a penalty of imprisonment. Furthermore, procurement was a criminal offence under article 323 of the Penal Code and was linked to prostitution and the unemployment of young destitute women.

Article 7

27. In replying to a question on the conditions and circumstances by which women could be deprived of their civil and civic rights or be declared incapable of managing their own affairs and lose the right to vote, the representative noted the provision of article 2 of the Constitution relative to the electoral law, which outlined the ineligibility of electors to vote, in the case of a prison conviction or civic degradation owing to crimes committed. However, these conditions are applicable to both sexes. The women in Senegal enjoyed legal capacity and could exercise it without any authorization.

28. Regarding the question of the participation of women in the public service, for example, in the army and in customs, the representative admitted the existence of discriminatory provisions; however, such provisions could be removed as a result of action aimed at the adoption in the national legislation of provisions contained in international instruments.

29. Regarding the role played by trade unions in encouraging women to participate in the political and commercial spheres, the representative referred to the Constitution, which allowed no discrimination in the enjoyment of this freedom, nor in the active participation in trade unions. He added that women were very active in this field.

Article 9

30. In replying to the apparent discriminatory provision in relation to women who marry non-Senegalese men, the representative stated that the 5-year requirement did not have a discriminatory connotation, but that it was aimed at verifying that the applicant was well integrated in Senegalese society. This provision was also aimed at discouraging arranged marriages for the purpose of acquiring Senegalese nationality.

Article 10

31. In answering the question on the reasons for young women dropping out of school and why emphasis was placed on finding jobs and technical training rather than on encouraging them to return to school, the representative referred to the reasons expressed in other relevant articles and the perception that the place of women was at home. This tendency might disappear in view of the focus of the State and women's organizations on this issue.

Article 11

32. In response to the question about the possibility of women competing for jobs in the civil service and other areas of the public sector on equal terms with men, the representative referred to Law 61-33 of 1967, which contained the rules and conditions pertaining to health, nationality and other requirements applicable to interested candidates. There was no discrimination in the distribution of posts, but there was a hierarchy and there were categories in the allocation of salaries. If there were discrepancies in salaries, it could be in the private sector, where women were usually paid by piece-work while men were paid by the hour.

Article 12

33. In respect of the equal access of women to health services, the representative stated that all medical facilities were available to all those living in the country.

34. In respect of spouses infected with AIDS, he stated that they were alerted early on by the service that discovered the disease, with a view to avoiding its spread.

35. In respect of family planning, he added that methods were available in all the medical centres for the protection of the child and mother and for family planning. However, the rural areas had fewer centres than did the urban areas.

Article 14

36. Regarding the de facto discrimination in rural areas with respect to women's access to land and their voice in decisions affecting the life in the community, the representative noted that the de facto situation had to do with the African perception that the owner of the land was the head of the family, while the women were only cultivators.

Article 15

37. The representative noted in clarifying article 13 of the Family Code that the wife could not leave the domicile unless authorized by the husband. However, this provision had been revoked in article 332 of the Penal Code, which originally had dealt only with abandonment by the wife. The provision had been revoked in the Penal Code in 1977, but the provision of article 13 of the Family Code had not been modified until 1989.

38. The representative reaffirmed that women could fully enjoy their legal capacities without the authorization of their husbands.

Article 16

39. In respect of the several questions raised regarding the age of marriage, arranged marriages, consent of the husband or other members of the family, the representative observed that the minimum age for marriage was 16 for women and 20 for men. He added that although marriage in the country was considered a social phenomenon, the prospective bride or groom, even if a minor, had to express consent first in front of the parents in the presence of two witnesses, then subsequently in front of the relevant civil authority when filling out the papers for the contract of marriage, and finally, in front of the civil official during the actual marriage ceremony, where both bride and groom had to give their oral consent.

40. With respect to the three matrimonial property systems provided for under the law, and in replying to the question on which of the systems (community property, separation of property, the endowment system) women selected more often, which of them women had access to for the administration of their property and how property was distributed upon the break-up of the marriage, the representative noted that the most common system chosen was the separation of property based upon the black African perception of marriage as a family issue, contrary to the greco-roman conception, which viewed marriage as the choice of the individual. Furthermore, the community property system was reserved for spouses who chose monogamous marriages. The dowry system was unknown.

41. In the case of dissolution of the separate marriage system, each spouse continued with their respective property, as indicated initially. In the case of the community property system, the community was dissolved by an official designated by a judge, who would divide the property into equal parts between the spouses.

42. In respect of the support for changes in the law and in practice concerning discrimination against women in the family in relation to the dowry and succession and equally shared parental authority rights, the representative observed the active participation of women's organizations and the political will of the relevant offices to adopt national legislation according to the provisions of the international instruments and to make changes in the texts and in practices which were discriminatory against women. Furthermore, succession and shared parental authority rights were also included in the package of reform under consideration. Regarding the abolition of polygamy, the representative stated that polygamy was not encouraged and that all provisions relevant to the family were usually aimed at restricting it, as in the case of the irrevocable option of monogamy. However, polygamy was a phenomenon which could not be abolished merely by the passing of laws.

43. Regarding the legal position of parties cohabiting and children born out of wedlock, the representative stated that concubinage was not recognized in Senegalese law, although the law in certain cases could be flexible by establishing legal facts. However, in the case of cohabitation, there was the benefit of being able to skip some procedures, such as the official publication

to be made before contracting marriage. Furthermore, children born during cohabitation could not be repudiated or disowned. The representative added with regard to the status of children born out of wedlock that they would take the name of the mother, but if they were recognized, they could then take their father's name. The forced recognition of children was forbidden; it had to be done by their father on a voluntary basis.

4. Additional questions

44. It was also noted that the rate of illiteracy was too high and that all women had to have a knowledge of the laws to be able to invoke them. A question was raised as to whether education was compulsory.

45. With respect to political participation, as it was another avenue for women to express their rights, a question was raised regarding what women thought of their representation in this field.

46. With respect to employment, a question was asked about the reason for the limited opportunities for women in employment, and it was suggested that facilities for credit and the development of strategies for women in the informal sector should be pursued.

47. With respect to violence against women, a question was raised as to whether Senegalese law could become more effective in dealing with the issue.

48. With respect to the two forms of marriage, information was needed with which to determine the basis for the choice between polygamy and monogamy, as it was thought that the law which intended to promote monogamy could have unintentionally had the reverse effect.

49. An analysis of the effects of the legislative changes on the lives of women was suggested for the next report.

50. Another question referred to children born out of wedlock, and what could be done to improve their situation.